

**TITLE 2. ADMINISTRATION
DIVISION 3. STATE PROPERTY OPERATIONS
CHAPTER 1. STATE LANDS COMMISSION**

**ARTICLE 5.4 Structural Requirements for Vapor Control Systems at Marine
Terminals.**

NOTICE OF PROPOSED REGULATORY ACTION

The California State Lands Commission (the Commission) proposes to repeal the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to repeal Sections 2550 through 2556 of Article 5.4, in Title 2, Division 3, Chapter 1 of the California Code of Regulations (CCR). The repeal would discontinue the provisions for structural requirements for vapor control systems at marine oil terminals in the state and replace those provisions with new requirements authorized under Title 24, Part 2, Volume 1 of the CCR. The regulations under Title 24, Part 2, Volume 1 were recently approved by the California Building Standards Commission and become effective on February 6, 2006.

WRITTEN COMMENT PERIOD

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at 5.00 pm on Monday, November 14, 2005. All written comments must be received at the Commission by that time. Written comments should be submitted to:

Livin Prabhu
Supervisor, Planning Branch
California State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802

PUBLIC HEARING

The Commission has not scheduled a public hearing for this proposed action. However, the Commission will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

AUTHORITY AND REFERENCE

Authority: Sections 8751, 8755 and 8757, Public Resources Code.

Reference: Sections 8670.1 through 8670.70 Government Code; Sections 8751, 8755 and 8757, Public Resources Code.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Commission proposes to repeal all of the provisions of 2 CCR, Article 5. 4 The Commission's Marine Facilities Division (the Division) commenced its inspection and monitoring program of all marine oil terminals in the state in 1991. PRC section 8755 authorizes the Commission to adopt rules, regulations, guidelines and commission leasing policies for reviewing the location, type, character, performance standards, size and operation of all existing and proposed marine terminals within the state. Initially, the Commission's regulations included annual and triennial inspections and thorough examinations. Since 1991 Commission staff, in consultation with industry and consultants, have developed comprehensive regulations entitled "Marine Oil Terminals Engineering and Maintenance Standards" (MOTEMS) under 24 CCR Chapter 31F, Divisions 1 through 11. These regulations were adopted by the Commission on August 17, 2004 and approved by the Building Standards Commission on January 19, 2005. They become effective from February 6, 2006. MOTEMS includes a comprehensive set of standards for the structure, oil transfer and safety equipment and maintenance of these items. MOTEMS includes all of the requirements of Article 5.4 and, if that article remains effective in the CCR, it would be duplicative of MOTEMS. The Commission is thus proposing this action to repeal Article 5.4.

This proposed regulatory action repeals the provisions of Article 5.4 and replaces those provisions with the requirements of the comprehensive MOTEMS program under 24 CCR Chapter 31F, Divisions 1 through 11.

DIFFERENCES FROM FEDERAL REGULATIONS

There are no comparable federal regulations. MOTEMS is a program exclusive to California.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17360: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or business: The commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Repeal of this regulation will not:

1. Create or eliminate jobs within California;
2. Create new businesses or eliminate existing business within California; or
3. Affect the expansion of businesses currently doing business in California.

Significant effect on housing costs: None

Small Business Determination

The Commission has determined that the repeal of these regulations do not affect small businesses as defined in Government Code (Gov. C.) Section 11342.610, because all affected businesses are maritime oil transportation and terminal owners and operators, as specified under Gov. C. Section 11342.610(c)(7) and having annual gross receipts of more than \$1,500,000.

Consideration of Alternatives

In accordance with Government Code section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative it considered or that has been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. This proposed action repeals Article 5.4. The Commission believes that there is no reasonable alternative to the repeal.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written public comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action may be directed to:

Livin Prabhu
Supervisor, Planning Branch
State Lands Commission
Marine Facilities Division
200 Oceangate, Suite 900
Long Beach, CA 90802
Tel: (562) 499-6312 Fax: (562) 499-6317 e-mail: prabhul@slc.ca.gov

Or

Mark Meier
Senior Staff Counsel
State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825-8202
Tel: (916) 574-1853

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its Long Beach office at the address above. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the initial statement of reasons. Copies may be obtained by contacting Livin Prabhu at the address or telephone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public comment period, the Commission may adopt the repeal of Article 5.4, substantially as described in this notice. If modifications are made, in response to public comments, which are sufficiently related to the original proposal of repeal, the modified text, with changes clearly indicated, shall be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Livin Prabhu at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Livin Prabhu at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout can be accessed through our website at.

http://www.slc.ca.gov/Division_Pages/MFD/MFD_Home.htm